

Commission on Civil Rights

§ 702.5

§ 702.2 Authorization for hearing.

Under section 105(f) of the Act the Commission or, on the authorization of the Commission, any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of the Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee may deem advisable; and the holding of hearings by the Commission or the appointment of a subcommittee to hold hearings pursuant to this section must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of four members is present.

§ 702.3 Notice of hearing.

At least 30 days prior to the commencement of any hearing, the Commission shall cause to be published in the FEDERAL REGISTER notice of the date on which such hearing is to commence, the place at which it is to be held, and the subject of the hearing.

§ 702.4 Subpenas.

(a) Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued by the Commission over the signature of the Chairman and may be served by any person designated by the Chairman.

(b) A witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the rules in this part at the time of service of the subpoena.

(c) The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a place outside the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpoenas for the attendance and testimony of witnesses and the production of written or other matter at a place within 50 miles of the place where the witness is found or resides or

is domiciled or transacts business or has appointed an agent for receipt of service of process.

(d) The Chairman shall receive and the Commission shall dispose of requests to subpoena additional witnesses except as otherwise provided in § 702.6(e).

(e) Requests for subpoena shall be in writing, supported by a showing of the general relevance and materiality of the evidence sought. Witness fees and mileage, computed pursuant to § 702.15, shall be paid by the person at whose instance a witness is subpoenaed.

(f) Subpenas shall be issued at a reasonably sufficient time in advance of their scheduled return, in order to give subpoenaed persons an opportunity to prepare for their appearance and to employ counsel, should they so desire.

(g) No subpoenaed document or information contained therein shall be made public unless it is introduced into and received as part of the official record of the hearing.

[32 FR 4063, Mar. 15, 1967. Designated at 42 FR 14108, Mar. 15, 1977, and amended at 44 FR 75149, Dec. 19, 1979]

§ 702.5 Conduct of proceedings.

(a) The Chairman shall announce in an opening statement the subject of the proceeding.

(b) Following the opening statement, the Commission shall first convene in executive session if one is required pursuant to the provisions of § 702.6.

(c) The Chairman shall, subject to the approval of the Commission—

(1) Set the order of presentation of evidence and appearance of witnesses;

(2) Rule on objections and motions;

(3) Administer oaths and affirmations;

(4) Make all rulings with respect to the introduction into or exclusion from the record of documentary or other evidence;

(5) Regulate the course and decorum of the proceeding and the conduct of the parties and their counsel to insure that the proceedings are conducted in a fair and impartial manner.

(d) Proceedings shall be conducted with reasonable dispatch and due regard shall be had for the convenience and necessity of witnesses.

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(e) The questioning of witnesses shall be conducted only by Members of the Commission, by authorized Commission staff personnel, or by counsel to the extent provided in § 702.7.

(f) In addition to persons served with a copy of the rules in this part pursuant to §§ 702.4 and 702.6, a copy of the rules in this part will be made available to all witnesses.

(g) The Chairman may punish breaches of order and decorum by censure and exclusion from the proceedings.

§ 702.6 Executive session.

(a) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session.

(b) The Commission shall afford any persons defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by them, before deciding to use such evidence or testimony.

(1) Such person shall be served with notice in writing of the date, time, and place made available for the appearance of witnesses at executive session, at least 10 days prior to such date, or where service is by mail at least 14 days prior to such date. This notice shall be accompanied by a copy of the rules in this part and by a brief summary of the information which the Commission has determined may tend to defame, degrade, or incriminate such person.

(2) The notice, summary, and rules in this part shall be served personally by depositing the same in the United States mail as certified mail, or by leaving a copy thereof at the last known residence or business address of such person.

(3) The date of service, for purposes of this section, shall be the day when the material is deposited in the United States mail or is delivered in person, as the case may be. When service is made by certified mail, the return post office receipt shall be proof of service; in all other cases, the acknowledgment of the

party served, or the verified return of the one making service shall be proof of the same.

(c) If a person receiving notice under this section notifies the Commission within five days of service of such notice, or where service is by mail within eight days of service of such notice, that the time scheduled therein constitutes a hardship, the Commission may, in its discretion, set a new time for such person's appearance at the executive session.

(d) In the event such persons fail to appear at executive session at the time and place made available under paragraph (b) or (c) of this section, they shall not be entitled to another opportunity to appear at executive session, except as provided in § 702.11.

(e) If such persons intend to submit sworn statements of themselves or others, or if they intend that witnesses appear in their behalf at executive session, they shall, no later than 48 hours prior to the time set under paragraph (b) or (c) of this section, submit to the Commission, all such statements and a list of all witnesses. The Commission will inform such persons whether the number of witnesses requested is reasonable within the meaning of paragraph (b) of this section. In addition, the Commission will receive and dispose of requests from such persons to subpoena other witnesses. Requests for subpoenas shall be made sufficiently in advance of the scheduled executive session as to afford persons subpoenaed reasonable notice of their obligation to appear at that session. Subpoenas returnable at executive session shall be governed by the provisions of § 702.4.

(f) Persons for whom an executive session has been scheduled, and persons compelled to appear at such session, may be represented by counsel at such session to the extent provided by § 702.7.

(g) Attendance at executive session shall be limited to Members of the Commission, authorized Commission staff personnel, witnesses and their counsel at the time scheduled for their appearance, and such other persons whose presence is requested or consented to by the Commission.

(h) In the event the Commission determines to release or to use evidence